

EXHIBIT G

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EXHIBIT H

Newbert - People - Direct

16

A Alan eventually talked to the person on the other end of the phone and told him that the police were here to arrest him and to have the attorney call him back. We asked what the attorney's name was. He said it was David Segal.

Q Did the defendant leave that apartment with you?

A Yes, he did.

THE COURT: Voluntarily?

A Yes. He was not handcuffed.

Q Where, if any place, did you go?

A We went to the 48th Precinct.

Q I am going to direct your attention to the same date, the 28th of June, 1984, at approximately two o'clock in the afternoon and at approximately two o'clock in the afternoon did you have the occasion to conduct a lineup?

A Yes, I did.

Q At approximately two o'clock in the afternoon can you tell us who, if anyone was present to view a lineup?

A The complaining witness, Velisia Johnson.

Q And was she able to select a number from that lineup?

A Yes, she was.

Q Who, if anybody -- withdrawn.

Who was seated in the number five position.

A Alan Newton.

THE COURT: What if anything did you say to

Newbert - People - Direct

17

before the lineup?

THE WITNESS: I asked her if she was feeling all right. She had told me she was in pain. I asked her if she could see properly. She said, "Yes." I said, "If you have any problems viewing the lineup to please tell me." I told her just that you're going into a room with a one-way mirror. No one could see you. You don't be afraid. She was extremely frightened and I told her that no one could see you and I asked her to pick a number.

THE COURT: Of what?.

THE WITNESS: Of -- if she recognized anybody seated in any of these positions. There were six people sitting there, six male blacks.

THE COURT: Excuse me, Detective Newbert. Did you ask her if she saw anybody who might be the center fielder for the New York Yankees.

THE WITNESS: If anybody that she recognized or the one, person that assaulted her the night of the 23rd.

Q Detective, I would like you to tell us exactly what happened from the time Ms. [REDACTED] went to the viewing room until the lineup was concluded?

A She went into the viewing room and she did need

Newbert - People - Direct

18

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2 help standing up because she had an abdominal operation.
3 So Detective Hartfield and myself were in the viewing room.
4 We had to lift her onto a platform in order for her to see,
5 to view through the window. She viewed each one of the people
6 and she stated to me that it was number five.

7 Q What if anything happened after that?

8 A She asked -- she says, "Can I have them talk.
9 Would they talk". She wanted to hear specific words.

10 Do you want the words?


11 THE COURT: Yes. Tell me what happened.

12 THE WITNESS: Can I read them in here, the
13 exact words?

14 Q Refresh your recollection.

15 THE COURT: Yes, if that refreshes your
16 recollection, Detective.

17 THE WITNESS: All right. Okay. She asked
18 for each one of them to say, "I'll fix you so you
19 don't identify me, you bitch," and we requested
20 each of the fillers to -- while she was standing
21 there each one of the fillers were asked to repeat
22 this. When it came time to number five he did
23 not speak loud and she says, "I can't hear him."
24 So we requested that he repeat it. Number six
25 made the same statement and she walked out of the



Newbert - People - Direct

19

viewing room shaking her head and she had to have help in calming --

MS. FREUND: Indicating from left to right.

THE WITNESS: Indicating from left to right and she had to -- the officer that was helping her into our office, "I still can't hear what he said."

THE COURT: Number five?

THE WITNESS: Number five. Each one of the fillers was brought to the door of the lineup room and was asked to repeat this.

Q Where was Miss [REDACTED] at the time that the fillers were -- excuse me, the people in the lineup were brought to that door?

A She had to be seated in our office which is right, you know, through another door, through a doorway.

Q Was she observing the people who came to the door?

A No, she could not see them.

Q Please tell us what, if anything, happened after that?

A She stated that she still could not hear what was being said. At that time I had walked into the lineup room and I stated to Alan Newton, I said that either somebody that looks like you or it is you. That is because he had

Newbert - People - Direct

20

1 requested whether he was picked out from the lineup and I
2 said wait a minute and I told him either it is you or somebody
3 that is your clone, your duplicate that is doing what
4 is going on there. So with that Detective Hartfield came
5 back to me and said that she says it is number five. Okay,
6 he is being placed under arrest.

7
8 THE COURT: That was before she heard him
9 speak?

10 THE WITNESS: Right, it was before she heard
11 him speak.

12 THE COURT: What was it she told you.

13 THE WITNESS: She still could not hear him
14 speak.

15 THE COURT: Prior to that time she had not
16 picked out number five.

17 THE WITNESS: She picked out number five on
18 the viewing.

19 THE COURT: Then asked for voice identifica-
20 tion.

21 THE WITNESS: Yes.

22 THE COURT: There was a voice identification
23 of everybody except number five?

24 THE WITNESS: Yes.

25 THE COURT: What if anything happened after

Newbert - People - Direct

21

that, Detective?

THE WITNESS: I told Alan that he was going to be placed under arrest and with that he became extremely violent, screaming and yelling and occurring and he was removed to the cells.

THE COURT: Could Miss [REDACTED] hear him?

THE WITNESS: The whole precinct heard him.

Q Where was Miss [REDACTED] at the time that the detective -- at the time that Alan Newton became loud?

A She was sitting in our office.

Q Where is your office in relation to the lineup room?

A Like two doors away.

Q Were the doors to that office closed or open.

A They were closed.

Q What if anything happened after that?

A She sat in our office shaking and saying "That's him. That's him. I know it is him." She says, "That is the voice."

THE COURT: In other words she identified the voice after she heard the screaming?

THE WITNESS: Yes.

THE COURT: But she couldn't see him?

THE WITNESS: No. She could not see him.

Newbert - People - Direct

22

Q Detective, to be perfectly clear, didn't Miss [REDACTED] identify number five in that lineup prior to the time that she asked to hear the voices of these people?

A Yes, she did.

Q I will direct your attention, Detective, to the 27th of June, 1984, at approximately four o'clock in the afternoon.

Did you have a conversation with a Miss Gonzalez?

A Yes, I did.

Q And was that at Miss Gonzalez's place of employment?

A Yes, it was.

Q Did Miss Gonzalez view any photographs at that time?

A She was presented with a photo array.

Q And did you present her with this photo array?

A Yes, I did.

Q Who, if anyone else was present?

A Detective Galligan.

Q What if anything did you say to her prior to the time that she viewed this photo array?

A She was interviewed by Detective Galligan on a prior date. We had asked her if she would view the photo array and if she recognizes anybody in that photo array as being in the store on the evening of the 23rd or point of

Newbert - People - Cross

84

1 Q Does she say anything before that?

2 A No. She says, "It is number five."

3 Q After she says it is number five do you say anything
4 or did the other detective in the room say anything?
5

6 A No. She said, "Can I hear them talk" I want to
7 hear them talk."

8 Q Is this before you and Detective -- who is it?

9 A Hartfield.

10 Q Hartfield say anything?

11 A No. She asked, "Can I hear them talk," and I said,
12 "Yes."

13 Q My question is, she says it is number five?

14 A Uh-huh.

15 Q Okay.

16 A Uh-huh.

17 Q Do you and Hartfield say anything at that point?

18 A No.

19 Q You don't say a word?

20 A Not that I recall.

21 Q What is the next thing that happens after that?

22 A She asked me if she could hear them talk.

23 Q And did you ask her why?

24 A No, I didn't. I said, "If you want to hear them
25

Newbert - People - Cross

85

talk we'll have to have everyone of them talk."

Q And what did she say then?

A She said, "I want to hear them talk."

Q What happens next?

A I said, "What do you want to hear them say," and she gave me the line that she wanted them to say.

Q And what was that?

A Verbatim I would have to read it. If it is verbatim -- do you mean, it was similar to, I'll fix it so you can't identify me, you bitch.

Q When she said that she wanted them to say it, did you say to her do you want it in a loud voice, soft voice, medium? What did you say to her?

MS. FREUND: Objection.

THE COURT: Overruled.

Q Did you say to her how do you want it said?

A No, I didn't. I don't remember.

THE COURT: What happened after that?

THE WITNESS: Each one of them was asked to say it. I told Detective Galligan who was inside the viewing room. I said have each one of them say this line and they started from one and worked down.

Q When each one said it?

Newbert - People - Cross

86

A Yes.

Q Was she viewing the screen?

A Yes.

Q So she was watching each one?

A When number one was told --

THE COURT: For my own benefit I haven't ever been at a lineup. Could you hear?

A I could hear.

THE COURT: Even though inside the lineup room cannot see, the voices can be heard?

A Yes. You can hear their voices.

Q Let me ask you this, in order to tell you, say Detective Galligan was inside the room?

A Uh-huh.

Q How did you communicate with Galligan?

A I just stuck my head out of the door.

Q You had to stick your head out of the door?

A Yes.

Q So that there was a door that lead to the lineup room; is that correct?

A Yes.

Q You don't have a phone from one room to the other?

A No.

Q You're saying that you can hear from in that room?

Newbert - People - Cross

87

A Uh-huh.

Q The lineup room to the room where you were?

A Uh-huh.

THE COURT: Not the other way around from in the viewing room you could hear what is said in the lineup room; is that correct?

A Yes.

THE COURT: But not the reverse?

THE WITNESS: You could. You could but I just didn't, I mean, I felt that my yelling --

THE COURT: Just curious. If somebody in the viewing room says number five, you mean number five can hear that?

THE WITNESS: I guess if they heard, you know, if they listened very carefully they could hear it but they usually don't yell it out.

Q But you don't know if anyone could hear what was being said, from your room?

A No. I couldn't say.

Q In other words you tell something to Galligan?

A Yes.

Q And Galligan goes to number one to say something?

A No. He says I will have each one of you repeat what I say.

Newbert - People - Cross

88

THE COURT: Did you hear him say that to them?

THE WITNESS: I don't know. They were doing whatever I wanted.

THE COURT: No, slow down a second. I don't want you to assume. You told Galligan in the lineup you wanted them to say something and they said it but do you recall hearing Galligan tell them?

THE WITNESS: No.

THE COURT: What to say?

THE WITNESS: No.

THE COURT: You came back into the viewing room and each one said, repeat this line?

THE WITNESS: Yes.

Q And you were able to hear in the viewing room?

THE WITNESS: Yes.

THE COURT: And Hartfield was with you in the viewing room?

THE WITNESS: Uh-huh.

THE COURT: And Miss [REDACTED] was there?

THE WITNESS: Uh-huh.

THE COURT: You don't know what if anything she heard; you can only testify to what you heard.

THE WITNESS: Right.

Q When each one was asked to say it were they sitting

Newbert - People - Cross

89

1
2 down or standing?

3 A Sitting.

4 Q And when they were told to say it do you know what
5 Galligan said to them, in what voice to say it in?

6 A He asked to say it loud.

7 Q And number one was told to say it loud?

8 A Yes.

9 Q And number two, three, four?

10 A Uh-huh.

11 Q Number five, did you hear number five say --

12 A I could just barely hear it.

13 Q Could you hear four very well?

14 A Right.

15 Q And what, you couldn't hear five you say?

16 A Yes. She -- yes and she said to me, "I can't hear
17 him."

18 Q And was number six told to say something?

19 A Yes.

20 Q After the sixth one says something what happens
21 next?

22 A I believe she walked out of the viewing room and
23 she was shaking her head.

24 Q When she walks out of the viewing room, before she
25 walks out do you go back to the sixth man and say repeat it

Newbert - People - Cross

90

again?

A No.

Q Does Galligan say anything to the sixth man in the room?

A I don't remember, but we said that, you have to speak up.

Q To who?

A To number five.

Q Did you say to number five you have to speak up?

A No.

Q Do you know what Galligan said to number five?

Q A No.

Q You couldn't even hear what Galligan was saying?

A I would hear what Galligan was saying but I remember specifically that I could not hear him.

THE COURT: Do you recall Galligan telling him to repeat it louder?

THE WITNESS: Yes, he did.

Q Are you sure of that?

A I'm pretty sure, yes, uh-huh.

Q Did number five repeat it?

A I don't know. I don't know if he said it or he said it loud enough. I can't recall.

Q Well, Galligan -- she had said I can't hear number

Newbert - People - Direct

91

1
2 five and number six was told to say it?

3 A Uh-huh.

4 Q And then she says after that was number five
5 told?

6 A I think he was told right away. We can't hear
7 it, say it louder.

8 Q And did he?

9 A No, not loud enough.

10 Q But he did repeat it?

11 A Yes.

12 Q You were not satisfied with it at that point; is
13 that correct?

14 A No we left it at that point and she went down to
15 shaking her head. She left the viewing room.

16 THE COURT: To the best of your recollection
17 number five said it twice?

18 THE WITNESS: Yes.

19 THE COURT: Everybody else said it once?

20 THE WITNESS: Right.

21 Q You leave the viewing room with her?

22 A Yes.

23 Q And then as you leave the viewing room you say
24 she makes a statement?

25 A She had to. She didn't say it to me.

Newbert - People - Direct

92

Q But in your presence was it made in your presence?

A No. She just walked away shaking her head.

Q And that --

A Somebody had to help her, Detective Hartfield helped her into another room.

Q And at that point what happens next?

A She says to Detective Hartfield, "I still didn't hear. I didn't hear him."

THE COURT: Were you present when she said that?

THE WITNESS: No.

THE COURT: Strike that.

THE WITNESS: I know it is hearsay.

THE COURT: I have to strike it out.

Is Hartfield going to be a witness?

MS. FREUND: I will call him. I will make sure he is available.

Q When Miss [REDACTED] said I want to hear them say something --

A Uh-huh.

Q Did she tell you why she wanted to hear the voices; yes or no?

A Yes.

Q Yes?

Newbert - People - Direct

93

A Yes.

Q What did she say?

A She said that.

Q I assume this is saying to you?

A Yes, but this is not at that particular --

Q My question is --

A All right, now. You say, your testimony is she picks out number --

THE COURT: Let's not repeat it. At that time that she asked for each one to say something did she tell you at that time why she wanted them to say something?

THE WITNESS: No, not at that time.

THE COURT: Okay.

Q Did she say at that time, I'm not sure but I think it is number five?

A No. She said it is number five.

Q She said she was positive?

A Yes.

Q Did she use the word, "I'm positive," or did she use anything like that?

MS. FREUND: Objection.

THE COURT: What did she say?

THE WITNESS: Say says, "It is number five."

Newbert - People - Direct

94

Q At that point she leaves the room?

A Uh-huh.

Q Do you do anything with the people in the room?

A In the lineup room, yes.

Q What do you do?

A I went into the lineup room and I told them to stay seated. Okay. They were also asked again, okay, to you know, come to the door and to make that statement. Okay. Each one was brought up to the door.

Q Okay. So Miss [REDACTED] has left the room with Detective Hartfield?

A And she is now sitting right in our room, in our office.

Q How close is your office to where the viewing room is in the lineup room?

A About two, three feet.

Q Right next to each other?

A Yes.

THE COURT: Was the door closed?

THE WITNESS: The door was ajar, open. The viewing room was ajar, open so the voice would travel and the other --

THE COURT: Could Miss [REDACTED] see who was talking?

Newbert - People - Direct

95

THE WITNESS: No.

Q You go into the room?

A Uh-huh.

Q And you say -- was Galligan in the room with you?

A Yes.

Q And you say that you're going to have to repeat that statement?

A Uh-huh.

Q So each one is told to walk up to the door; is that correct?

A Yes.

Q And to repeat the statement?

A Right.

Q Are they told how to say that statement?

A They were told how to say it, loud.

Q In a loud voice?

A Yes.

Q Is it done one, two, three, four, five, again?

A Right.

Q No discussion six, five, four, two, three, two, one, it is not broken up in any way?

A No.

Q Miss [REDACTED] heard number one and then Miss [REDACTED] heard number two, three, four and then five?

Newbert - People - Direct

96

THE COURT: I will sustain it as to the form.

I want to make sure the witness understands.

A Uh-huh.

MR. SEGAL: I think she understands.

THE COURT: I'm not sure. I'm the fact finder.

I know where you're going.

Q She hears the four voices before she hears the fifth voice but she doesn't know, does she, that it is number one who spoke first and then number two; does she?

A No. We didn't say this is number one, this is number two, this is number three.

THE COURT: So she heard another voice and another voice and third voice, so forth?

THE WITNESS: Yes.

Q Isn't it true that Hartfield who was with Miss [REDACTED] called out to you and Galligan in that room we're ready to proceed. Have number one come up to the door?

A I don't remember that.

Q Didn't Hartfield say we're ready and then you or I believe it was Galligan said number one come up?

A I don't remember that.

Q You don't remember that?

A No.

Q Was number one asked to come up?

Newbert - People - Direct

97

A Yes.

Q Was he pointed said you come up?

A I don't know. I don't know how exactly.

THE COURT: Where were you at that time?

THE WITNESS: I was in the room. I was standing with the door ajar.

THE COURT: You were in between the two rooms?

THE WITNESS: Yes.

THE COURT: Between the room where the lineup was and the room where Miss [REDACTED] was in?

THE WITNESS: Uh-huh.

Q You couldn't see which man was doing what, Detective?

A No.

Q Could you hear what Galligan was saying to the men in the room?

A I don't recall what he was saying. I heard it, but I don't recall.

(Continued on next page.)

Newbert - People - Cross

98

Q You don't recall it?

A No.

Q The four voices and then they're a fifth voice?

A Yes.

Q And then they're a sixth voice?

A Uh-huh.

Q What happens after all six have gone?

A She said to Detective Galligan, I mean Detective Hartfield that she said she still didn't hear, still couldn't hear.

THE COURT: Who, who?

Q Hear what?

A She didn't hear the fifth voice.

Q At that point then what happens? She says I can't hear the fifth voice and you hear her say that; am I correct?

A And I went to the lineup room and I said to Alan Newton, I said if you --

Q One second. I don't mean to cut you off. The other men in the room also?

A You come in after she makes that statement. You open the door, go in and say to Newton what?

A I believe he said to me, "Was I picked out," then I said, "You were picked out," but I said, "I don't know what is going on. If you aren't the one that did it then there's

Newbert - People - Cross

99

somebody who is your clone, practically your clone doing what is going on."

Q You said this to Newton?

A Yes.

Q What did he say?

A He said he didn't say anything at that time.

Q Was he seated or standing up?

A He was standing.

Q All the --

A All the fillers were around waiting to get paid and Detective Hartfield called me to the door and he said to me, he said, "Jo Ann, she's sure it is number five. That is what we're going with."

THE COURT: Could --

THE WITNESS: She identified --

THE COURT: Could Miss [REDACTED] hear that?

THE WITNESS: No.

THE COURT: Then you went in and told the defendant he was under arrest?

THE WITNESS: Yes.

Q And there was a disturbance in the police station?

A Right.

Q And she said that is the voice, I recognize it?

A She said, "That is him. That is the way he yelled

Newbert - People - Cross

100

at me. That is the way he was screaming at me."

Q This is after Hartfield had said that to you, Jo Ann it is number five?

A No. She had already told me it was number five.

Q But Hartfield comes in and says to you, Jo Ann she is sure it is number five or words to that effect; right?

A Yes.

Q That is when you tell Newton that he was under arrest?

A Yes.

Q At that point the fillers are let go; yes or no?

A I don't know.

Q Is Newton taken out of the room?

A Yes, he is.

Q And he is taken to where at that point?

A The cell.

Q And Miss [REDACTED] is still in the area isn't she?

A She is behind the door.

Q So you don't know if she can see Mr. Newton or not?

A I know she couldn't see him.

Q How do you know that?

A The door was closed.

Q The door to the room was closed?

A Yes.

Q So she couldn't see him?

Newbert - People - Cross

101

A No.

Q But where is Hartfield when you take Newton out?

A I don't know. I don't know who exactly took him out but he became very violent. So --

Q Were you there when he became violent?

A Yes.

Q Was Galligan there when he became violent?

A I couldn't say who was there.

Q You can't say?

A I don't remember, no.

Q And let's go back. Hartfield comes in and says, Jo Ann, she is sure it is number five.

A Uh-huh.

Q What does Hartfield do at that point?

A I don't know. I know that the door was closed, okay, and I don't know who, you know, came into the room.

THE COURT: Which door are we talking about?

THE WITNESS: The door to our office.

THE COURT: How about the door to the lineup room?

THE WITNESS: I don't know if that was -- well, that swings closed. So it probably was closed.

THE COURT: That is a self-closing door?

THE WITNESS: Yes.

Newbert - People - Cross

102

Q When you went in to speak to Mr. Newton?

A Yes.

Q Were you there and was Galligan there?

A There was a lot of confusion because now the fillers get up and they want to get paid.

Q I understand. I am trying to figure if you recall to the best of your recollection at that point?

A No I could not handle him at that point. There were other people who came in the room.

Q Is Galligan there?

A It is possible.

Q And you and Galligan and the defendant and five fillers in that room?

A Uh-huh.

Q And Hartfield comes into the room and tells you she's sure it is number five.

A No. This was after. That was before when I told him he was under arrest, that is when most of the male police officers came in and just escorted him out.

Q Trying to figure out when you told him he was placed under arrest.

You went into him and he asked you whether he had been identified?

A Uh-huh.

Newbert - People - Cross

103

Q And you told him, yes, I don't know what is going on, it is either you or some clone?

A Right. It was confusing.

Q Is that before Hartfield told you she had picked out number five?

A Yes.

Q Then Hartfield came into the room?

A He says --

Q Wait a minute.

A Yes.

Q Hartfield, you had left Hartfield with Miss [REDACTED]. He says, comes here to come out, open the door?

A Yes.

Q Opens the door to the lineup room? Asks you to come out?

A Just to --

Q Or come to the door?

A Come to the door.

Q You came to the door that is?

A She had said yes. She said, "It is definitely number five. No doubt in her mind."

Q At that point the room that Miss [REDACTED] was in, the door was closed?

A Correct.

Newbert - People - Cross

104

Q And then you went back in and formally placed him under arrest?

A Yes.

Q That is when something happened in the stationhouse?

A Right.

Q And then did you go back in with Miss [REDACTED]?

A Yes, I did.

Q Is that the time she heard somebody screaming and said that's the voice?

A Uh-huh, yes.

Q Okay. He's told he is under arrest, Mr. Newton?

A Yes.

Q Do you say that to him?

A Yes.

Q At that point does he start saying anything?

A I don't believe -- I said you were identified and he started screaming I don't recall what he said.

Q And the voice at that time was different than the voice he had used two or three prior times; is that correct?

MS. FREUND: Objection.

THE COURT: It is louder.

Q I mean the words louder. It was louder than what he had used before; is that correct?

A Very much so.

Newbert - People - Cross

105

Q And his voice carried; is that correct?

A Yes, it did.

Q At that point is he taken out of the room?

A He is taken out of the room and put into the cell and he continued.

Q Excuse me?

A He continued to scream.

Q In the cell?

A Yes.

Q Did you or any of your brother officers tell him to be quiet?

A We didn't tell him to be quiet.

Q Did you know his voice was carrying?

A Yes, I did.

MS. FREUND: Objection.

THE COURT: Overruled.

Q And did you concern yourselves with the fact that Miss [REDACTED] would hear the voice at that time?

A I couldn't have done anything.

Q But you knew Miss [REDACTED] would hear the voice; didn't you?

THE COURT: Well --

MR. SEGAL: All right.

Q And Miss [REDACTED], how close is Miss [REDACTED] to the

Newbert - People - Cross

106

room where the cell is?

A It is about twenty, twenty five feet.

Q So she would have heard him yelling?

A The whole precinct heard him.

THE COURT: This witness wouldn't know.

Q After that, Miss [REDACTED] was let go?

A She was requested to sign the papers and she was escorted out.

THE COURT: Was she taken back to the hospital?

THE WITNESS: No. She was taken back home.

Q Going now to Miss Gonzalez's identification, was Miss Gonzalez ever shown a similar bunch of photos like 200 photos?

A No, she was not.

Q Miss Gonzalez was only shown the photo array; is that correct?

A Yes.

Q And the photo array was shown to Miss Gonzalez after you had spoken -- Miss [REDACTED] had picked out Mr. Newton; is that correct?

MS. FREUND: Objection as to form.

MR. SEGAL: Withdraw it.

THE COURT: I think so. It is clear.

THE WITNESS: Yes.

MR. SEGAL: It is.